

How Do I Get Advice From the FPPC?

A Basic Overview of Telephone and Written Advice Services



Fair Political Practices Commission

428 J Street, Suite 620

Sacramento, CA 95814

Toll-free advice line: 1 (866) ASK-FPPC

Web site: www.fppc.ca.gov



How Do I Get Advice From the FPPC?

*"I'm running for city council.
What campaign reports do I need to file?"*

*"My home is near the proposed park. Can I vote on the
issue at next month's planning commission meeting?"*

*"I was just appointed to a government commission. Do I
need to disclose my personal financial interests?"*

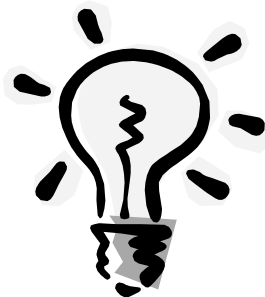
Many of you in the public and political arenas may have faced similar questions. But where can you turn for advice?

The Fair Political Practices Commission administers and enforces the Political Reform Act – the state law governing campaign finances, lobbying, conflicts of interest, gift limits, and post-government employment restrictions.

If you have a specific question about how the Political Reform Act applies to you, you should consult the Act, FPPC regulations and your legal counsel – and you can ask the FPPC for telephone or written advice. We answer thousands of calls for telephone advice monthly, issue hundreds of advice letters each year and host educational seminars around the state.

The Act is found in California Government Code sections 81000-91015. FPPC regulations are contained in Title 2, Division 6 of the California Code of Regulations.

**A good idea -
Call for toll-free
advice at:
1-866-ASK-FPPC
(1-866-275-3772)**



The FPPC web site, www.fppc.ca.gov, offers the Act and regulations as well as fact sheets, forms, meeting agendas, schedules of upcoming seminars and other helpful documents and publications. FPPC staff members conduct training seminars throughout the state on such topics as campaign treasurer duties and conflicts of interest.

The FPPC also offers a toll-free help number for those with obligations under the Political Reform Act – **1-866-ASK-FPPC (1-866-275-3772)**.

Generally, telephone advice is more appropriate for routine inquiries, while written advice or formal Commission opinions are more suitable for complex inquiries and issues under the Political Reform Act. Seminars are intended to provide a general introduction and overview of your obligations, such as tips on how to fill out campaign disclosure forms.

Note: the FPPC has discontinued its fax-on-demand system. All materials that were available through fax-on-demand are now available on the FPPC's web site in a user-friendly, printable format.

Who can ask for advice?

A public official, candidate, lobbyist or other person who has duties or obligations under the Act (or his or her authorized representative) can ask the FPPC for telephone or written advice. Examples of authorized representatives include city attorneys, campaign treasurers, lawyers, and agency counsels.

Examples of the types of questions frequently received by the FPPC include:

- *“Can I vote on the mall expansion plan at next month’s meeting?”*
- *“How do I report this contribution?”*
- *“What sender identification should I put on my campaign mailer?”*

No third-party advice

If you are calling or writing to ask about someone else’s actions, and you are not authorized to represent that person, the FPPC’s Technical Assistance Division and Legal Division cannot give you advice about the requirements of the Act. For example, we would not be able to provide advice if your fellow planning commissioner voted for a project and you suspect he or she may have had a conflict of interest.

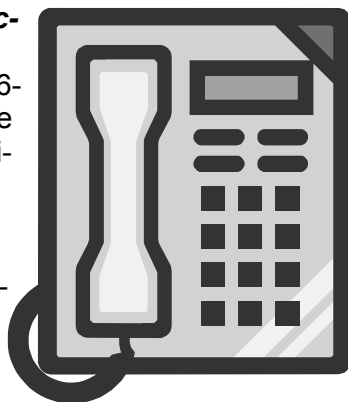
If you think someone may have violated a provision of

the Act, you may file a complaint with the Enforcement Division. The toll-free FPPC enforcement hot-line number is 1-800-561-1861. See the FPPC fact sheet on filing a complaint and the FPPC brochure, "What Happens After I File A Complaint With The FPPC?" Both are available on the web site, www.fppc.ca.gov, or by calling toll-free 1-866-ASK-FPPC.

More details **about FPPC telephone advice**

As far in advance of the action as possible, call the FPPC's toll-free help line (1-866-ASK-FPPC) and speak with one of the consultants in the Technical Assistance Division.

Consultants are available Monday through Friday (except holidays) from 9:00 a.m. until noon and 1:30-4:30 p.m. During exceptionally busy periods, you may have to hold for an available consultant, or you can leave a message and a consultant will call you back. If you call after regular business hours, you can leave your name, phone number and the nature of your call, and a consultant will contact you the next business day.



When will I get an answer? Most calls for telephone advice are answered on the same day. If you are calling during an exceptionally busy period — such as before a statement filing deadline or an election — or if the consultant needs to conduct research, a response to your call may take longer. If your question is factually complicated or presents a novel issue we have not advised on before, the consultant may not be able to give phone advice and

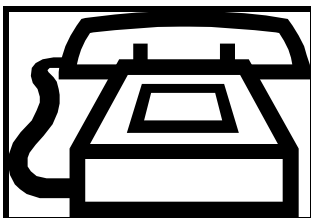
may ask you to request written advice instead.

Does telephone advice provide immunity? No. Telephone advice can provide you with valuable guidance and answers to routinely asked questions under the Act. But telephone advice does not provide the caller with immunity from prosecution under the Act. Only formal written advice confers limited statutory immunity on the requestor (California Government Code section 83114).

Does the Commission provide written confirmation of telephone advice? No. You have the choice of requesting telephone or written advice. If you choose telephone advice, the Commission will not provide written confirmation.

May the FPPC decline to provide advice? If a question concerns past conduct, is purely hypothetical, is not related to the Act, presents vague facts, is too complex, or if the requestor is asking for anonymous advice, the Commission may decline to provide telephone or informal

**Call as far in
advance of the action
as possible — not
after the fact!**



written assistance. Or we may limit our assistance to a general explanation of the requirements of the Act (Reg. 18329(c)(4)).

More details about FPPC written advice

If you have a more complicated or non-routine question, or are seeking limited immunity, you may want to request written advice from the FPPC. To request written advice, write a letter to:

General Counsel
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

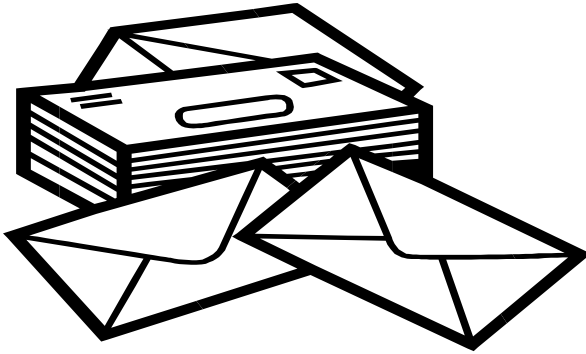
Your letter should include the following information:

- ***Your name, title or position, and mailing address.***
If you are requesting advice on behalf of someone other than yourself, the letter must specifically state that you are authorized to represent that person.
- ***The question.*** Clearly state the question(s) you want answered.
- ***The facts.*** Provide all of the material facts and information related to your question in a clear and concise manner. Summarize relevant parts of attachments and enclosures in the request.

Some frequently asked questions about written advice include:

What is the difference between “formal” and “informal” written advice?

“Formal” written advice letters from the FPPC apply provisions of the Political Reform Act to very specific factual situations involving particular public officials.



“Informal” written advice letters provide answers to general questions about the Act. Requests for written advice that seek general guidance and do not provide specific facts are treated as requests for informal written assistance. Formal written advice confers limited immunity on the requestor; informal written advice does not. Formal written advice is noted by the file prefix “A” in the FPPC file number of the letter, and informal written advice is noted by the prefix “I.”

When will I get an answer?

The Act directs the Commission to respond to a request for “formal” written advice within 21 business days of receipt. If a staff member needs to contact you to get more facts to prepare the reply, or if your request poses a particularly complex legal question, the 21-day period may be extended. The 21-day deadline does not apply to “informal” written advice.

What happens to a request for written advice once the FPPC receives it?

Upon receiving your request, the Commission sends you a written acknowledgment that provides the name of the staff person who will prepare the response. Commis-

sion staff may contact you to request additional facts or information needed to answer your request. Outgoing advice letters are reviewed and approved by a senior staff counsel, the General Counsel, or both.

Once issued, are advice letters made public?

Yes. The Commission publishes advice letter summaries in its *Bulletin* newsletter. We send copies of the advice letters to the Attorney General, Secretary of State, the Franchise Tax Board and private parties who have paid subscriptions. The advice letters are published on Westlaw and Lexis and are made available to interested parties on request.

Does written advice provide immunity?

Formal written advice based upon accurate and complete facts provides immunity to the requestor from any enforcement action initiated by the Commission and is evidence of good faith in any other proceeding if the requestor relies upon the advice in good faith (section 83114(b)). *Formal written advice is not a declaration of policy by the Commission. It is the application of law to a particular set of facts. Though the advice may provide guidance to others, the immunity provided by formal written advice is limited to the requestor under the specific facts described in the letter.* As discussed above, telephone advice and informal written advice do not confer immunity on the requestor.

May a requestor ask for reconsideration of written advice?

Yes. The request for reconsideration should be made to the general counsel. If the requestor wishes the commissioners to consider the matter, he or she should so state and the letter may be placed on the Commission's agenda for consideration.

May the Commission decline to provide advice?

The Commission may decline to provide formal written

advice if the requestor does not provide all of the material facts. The Commission may also decline to provide formal written advice if the request relates to past conduct, does not relate to the Act, is purely hypothetical, or presents issues requiring a policy interpretation best made through a Commission opinion or adoption of a regulation (Reg. 18329(b)(8)).

Tips for advice-seekers:

- ***Ask for advice before you act.*** FPPC staff members can provide you with phone or written advice about future conduct only, not about actions already taken. Similarly, staff members do not provide advice about matters in litigation or about which a complaint has been filed with the FPPC.
- ***Call or write as early as possible in advance of your deadline.*** Our staff members make every effort to respond within your time frame. But some questions may raise complex issues that require research, so try to call or write as early as possible prior to the action in question.
- ***Describe the facts fully.*** To receive the most accurate advice possible, identify yourself and the official or entities involved, state a clear question, and provide as many facts as possible. Examples include:
 - ◆ For campaign reporting questions, identify the candidate, committee name and type, and describe your activity in detail.



FAIR POLITICAL PRACTICES COMMISSION



FPPC On Line **www.fppc.ca.gov**

The FPPC, as part of its public education program, has expanded and upgraded its web site. The emphasis is not on flashy graphics but on providing users with a fully accessible site that

provides the most complete, up-to-date information possible.

The site includes, among other things:

- Fact sheets outlining the rules concerning: campaign disclosure, lobbyists, conflicts of interest, and gift limitations
- Updated information on Proposition 34
- Summaries of enforcement decisions
- Downloadable forms and publications
- The Political Reform Act
- FPPC regulations, including newly adopted rules
- Meeting agendas and summaries
- Current and past issues of the *FPPC Bulletin*

- ◆ For questions relating to conflicts of interest, identify the public official involved, the governmental decision the official is making, and the official's economic interests (property, income, or gifts) that may cause a conflict of interest.
- ***We can't provide advice on hypothetical situations.*** Ask for advice about a real transaction you plan to undertake or a specific decision coming before you. FPPC staff members cannot provide advice about speculative "what-if" scenarios.
- ***Check previous FPPC advice letters.*** We may have already answered a question similar to yours in a previous advice letter. The Commission's advice letters are available on the legal research services Westlaw and Lexis.

Commission Opinions

The Commission, following a process outlined in its regulations, may issue formal opinions. Such opinions typically involve matters of significant public interest and substantial questions of interpretation of the Political Reform Act.

The procedure for requesting and issuing formal opinions is detailed in FPPC Regulations 18320-18326.

Requesting an opinion

Requests for formal opinions may be submitted to the Commission by any person whose duties under the Act are in question, or that person's authorized representative.

The procedure for requesting a formal opinion, and the Commission's procedure for granting or denying such requests, is outlined in Regulation 18320.

To request a formal opinion, write a letter to:

Executive Director
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

Try to state the question and all relevant facts as concisely as possible. The executive director determines whether to grant or deny opinion requests. A denial can be appealed by the person requesting the opinion.

Requests for opinions received by the FPPC are public records and are open to public inspection.

Public hearings held

When the Commission has agreed to issue an opinion, a public hearing is held. *The opinion requestor, interested persons and members of the public are given an opportunity to provide both written and oral input before the opinion is adopted.*

The Commission adopts formal opinions at a public meeting. Before the meeting, a draft of the opinion is provided to members of the Commission, the person requesting the opinion, the state Attorney General, the Franchise Tax Board, the Secretary of State and other interested persons, and is made available to the public.

Opinions published

Opinions adopted by the Commission, along with any dissenting or concurring opinions by commissioners, are public and are published on Westlaw and Lexis.

May the person requesting the opinion ask for a re-hearing?

Yes. Within 14 days after the adoption of a formal

opinion by the Commission, the person who submitted the opinion request, a commissioner or the executive director may petition the Commission to grant a rehearing.

*The **purposes** of California's Political Reform Act are described in the initiative's preamble, including:*

"Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited."

"The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials."

"Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided."

How To Contact Us:



By mail:

Fair Political Practices
Commission
428 J Street, Suite 620
Sacramento, CA 95814

Internet:

www.fppc.ca.gov

By telephone:

Toll-free advice line:
1-866-ASK-FPPC
(1-866-275-3772)
Regular line: 1-916-322-5660
Enforcement hot line:
1-800-561-1861

California
Fair Political Practices Commission